



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 500
DENVER, CO 80202-2466
<http://www.epa.gov/region08>

May 1, 2003

Ref: 8ENF-T

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

William P. Ainsworth, President
Progress Rail Services Corporation
1600 Progress Drive
Albertville, AL 35950

Re: Administrative Order
Docket No. **SDWA-08-2003-0010**
Progress Rail Services Corporation
PWS ID #WY5601463 NC

Dear Mr. Ainsworth:

Enclosed you will find a document entitled "Administrative Order" (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Order finds that the Progress Rail Services Public Water System is a supplier of water as defined by the SDWA in violation of the National Primary Drinking Water Regulations (NPDWRs) found at 40 C.F.R. §141.21(a), §141.201, §141.21(g)(2) and §141.31(b) for failure to: monitor for total coliform bacteria; provide public notice for the violations listed above; report total coliform non-compliance to EPA; and report SDWA violations to EPA within 48 hours.

If you comply with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violation of the enclosed Order may lead to (1) a penalty of up to \$27,500 per day per violation of the Order, (2) a separate penalty for violating the regulations, and/or (3) a court injunction ordering you to comply.

EPA encourages your public water system operator or manager to complete an operator certification training course. The web address for operator certification and training courses is: <http://deq.state.wy.us/wqd/w&ww/SRF/opcert.htm>. Should you have additional questions you may contact either Dennis Jaramillo at 303-312-6203 or Louise Cordova at the Wyoming Department of Environmental Quality at 307-777-7781.



Printed on Recycled Paper

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information should be sent to Dennis Jaramillo at the address on the letterhead and include the mail code 8-ENF-T, or call (800) 227-8917 X6203 or (303) 312-6203. If you wish to have an informal conference with EPA, you may also call or write Mr. Jaramillo. If you are represented by an attorney or have legal questions please call Thomas Sitz at the above 800 number extension 6918 or at (303) 312-6918.

We urge your prompt attention to this matter.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance and
Environmental Justice

Enclosures

cc: Larry Robinson, WYDEQ
Dr. Karl Musgrave, WYDPH
Ken Beck, Progress Rail Services



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

May 1, 2003

Ref: 8ENF-T

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Sharon Kay Lovitt,
Converse County Commissioner
107 North 5th Street, Suite 114
Douglas, Wyoming 82633

Re: Notice of SDWA Enforcement
Action Against
Progress Rail Services
PWS ID#5601463

Dear Ms. Lovitt:

Pursuant to Section 1414(a)(2)(B) of the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to the Progress Rail Services Public Water System, 3031 highway 59, thirty miles north of Douglas, Wyoming on state highway 59, Converse County, Wyoming. This Order requires that the Progress Rail Services take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The Progress Rail Services Public Water System has violated 40 CFR §141.21(a), §141.201, §141.21(g)(2) and §141.31(b) for failure to: monitor for total coliform bacteria; provide public notice for the violations listed above; report total coliform non-compliance to EPA; and report SDWA violations to EPA within 48 hours.



A copy of this Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Dennis Jaramillo at (303) 312-6203.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII

IN THE MATTER OF)	
)	
Progress Rail Services Corporation)	
1821 Logan Ave)	
Cheyenne, WY 82001)	ADMINISTRATIVE ORDER
PWS ID # 5601463)	
)	
Respondent)	
)	
Proceedings under Section 1414(g))	
of the Safe Drinking Water Act,)	Docket No. SDWA-08-2003-0010
42 U.S.C. §300g-3(g))	
)	

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. §300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region VIII.

FINDINGS

1. Progress Rail Services Corporation (Respondent) is a corporation under the laws of the State of Alabama as of March 1996 and therefore a "person" within the meaning of Section 1401(12) of the Act, 42 U.S.C. §300f(12), and 40 CFR §141.2.

2. Respondent owns and/or operates a system, Progress Rail Services Corporation public water system, located at 3031 highway 59, in Converse County, Wyoming thirty miles north of Douglas Wyoming on state highway 59 for the provision to the public of piped water for human consumption.
3. Progress Rail Services Corporation water system regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. §300f(4), and a "non-transient non-community water system" within the meaning of Section 1401(6) of the Act, 42 U.S.C. §300f(16) and 40 CFR §141.2.
4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. §300f(5) and 40 CFR §141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. §300g et seq., and its implementing regulations, 40 CFR Part 141.

5. According to an August 15, 2000, sanitary survey, Respondent operates a system which is supplied by a ground water source. The Progress Rail Services Corporation serves an average of 50 persons daily through one service connection and is open all year.

FINDINGS OF VIOLATION

I.

1. 40 CFR §141.21 requires public water systems to monitor their water at least once per quarter to determine compliance with the MCL for total coliform bacteria as stated in 40 CFR §141.63.
2. Respondent failed to monitor its water for contamination by total coliform bacteria during the second quarter (April-June) and fourth quarter (October-December) 2000, and second and third (July-September) quarters 2002, in violation of 40 CFR §141.21.

II.

1. 40 CFR §141.201 requires owners and/or operators of public water systems to notify the public of any National Primary Drinking Water Regulation ("NPDWR") violations, including violations of the maximum contaminant level ("MCL"), maximum residual

disinfection level ("MRDL"), treatment technique (TT), monitoring requirements, and testing procedures in 40 CFR Part 141.

2. Respondent has not provided public notice of the noncompliance detailed in the preceding Section I, except for the failure to monitor for total coliform violation which occurred in the second quarter 2002, in violation of 40 CFR §141.201.

III.

1. 40 CFR §141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 CFR §141.21 to report the violation to EPA within ten days after the system discovers the violation.
2. Respondents failed to report to EPA instances of noncompliance detailed in Section I, in violation of 40 CFR §141.21(g)(2).

IV.

1. 40 CFR §141.31(b) requires public water systems to report any failure to comply with the provisions of the National Primary Drinking Water Regulation, set forth at 40 CFR Part 141, to EPA within 48 hours.
2. Respondent failed to report to EPA within 48 hours the instances of noncompliance described in Findings of

violation II above, in violation of 40 CFR §141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Upon the effective date of this Order, Respondent shall comply with the requirement of 40 CFR §141.21(a) to perform quarterly bacteriological monitoring. Respondent shall comply with the MCLs as stated in 40 CFR §141.63. Respondent shall report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 CFR §141.31(a)
2. Within 30 days of the effective date of this Order, Respondent must provide public notice of the failure to monitor violations, cited in this Order, to return to compliance with 40 CFR §§141.201, 141.204 and 141.205. This notice must be given by any one of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system; (2) by mail or direct delivery to each customer and service connection; AND (3) any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the notice described in (1) and

- (2), including publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 CFR §141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 CFR §141.31(d).
3. Upon the effective date of this Order, Respondent shall comply with 40 CFR §141.21(g)(2) by reporting to EPA any failure to comply with coliform monitoring requirements within ten days after the system discovers the violation.
4. Upon the effective date of this Order, Respondent shall comply with 40 CFR §141.31(b) by reporting to EPA any failure to comply with any National Primary Drinking Water Regulation (40 CFR Part 141) within 48 hours.
5. Reporting requirements specified in this Order shall be provided by certified mail to:

Dennis Jaramillo
U. S. EPA Region VIII (8ENF-T)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 CFR §141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order instituted under Section 1414(g) (3) (A), 42 U.S.C. §300g-3(g) (3) (A), may subject the Respondent to an administrative civil penalty of up to \$25,000 per day of violation under section 1414(g) (3) (B) of the Act, 42 U.S.C. §300g-3(g) (3) (B), or a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g) (3) (C) of the Act, 42 U.S.C. §300g-3(g) (3) (C).
3. Violation of any requirement of the SDWA or its implementing regulations instituted under Section 1414(b), 42 U.S.C. §300g-3(b), may subject Respondent to a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act,

42 U.S.C. §300g-3(b) .

4. The effective date of this Order shall be the date of issuance.

Issued this 1ST day of May, 2003.

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

David J. Janik

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE
REGIONAL HEARING CLERK.**

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON MAY 1, 2003.